

Rural Utilities Service, USDA

§ 1738.302

the applicant. If the borrower fails to begin construction, the Agency may cancel the loan.

(d) The build-out must be complete within three years from the day the Agency notifies the applicant that loan funds are available. Build-out is considered complete when the network design has been fully implemented, the service operations and management systems infrastructure is operational, and the borrower is ready to support the activation and commissioning of individual customers to the new system.

§ 1738.253 Servicing.

(a) Borrowers must make payments on the broadband loan as required in the note.

(b) Borrowers must comply with all terms, conditions, affirmative covenants, and negative covenants contained in the loan documents.

(c) In the event of default of any required payment or other term or condition:

(1) A late charge shall be charged on any payment not made in accordance with the terms of the note.

(2) The Agency may exercise the default remedies provided in the loan documents but is not required to do so.

(3) If the Agency chooses to not exercise its default remedies, it does not waive its right to do so in the future.

§ 1738.254 Accounting, reporting, and monitoring requirements.

(a) Borrowers must adopt a system of accounts for maintaining financial records acceptable to the Agency, as described in 7 CFR 1770, subpart B.

(b) Borrowers must submit annual audited financial statements along with a report on compliance and on internal control over financial reporting, and management letter in accordance with the requirements of 7 CFR part 1773. The Certified Public Accountant (CPA) conducting the annual audit is selected by the borrower and must be approved by RUS as set forth in 7 CFR 1773.4.

(c) Borrowers must comply with all reasonable Agency requests to support ongoing monitoring efforts. The Borrower shall afford RUS, through its representatives, reasonable oppor-

tunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the Broadband System, and any other property encumbered by the Mortgage, and any or all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in the possession of the Borrower or in anyway pertaining to its property or business, including its subsidiaries, if any, and to make copies or extracts therefore.

(d) Borrowers records shall be retained and preserved in accordance with the provisions of 7 CFR part 1770, subpart A.

§§ 1738.255—1738.300 [Reserved]

Subpart G—Loan Guarantee

§ 1738.301 General.

(a) Applicants wishing to obtain a loan guarantee for private financing are subject to the same requirements as direct loan borrowers with respect to:

(1) Loan purposes as described in subpart B;

(2) Eligible borrowers and eligible areas as described in subpart C;

(3) The loan terms described in subpart D, with the exception of the interest rates described in § 1738.152; and

(4) The application review and underwriting requirements in subpart E.

(b) The Agency will publish a notice annually in the FEDERAL REGISTER indicating any additional requirements, as well as the amount of funds available, if any, for loan guarantees.

§ 1738.302 Eligible guaranteed lenders.

To be eligible for a loan guarantee, a guaranteed lender must be:

(a) A financial institution in good standing that has been a concurrent lender with RUS; or

(b) A legally organized lending institution, such as commercial bank, trust company, mortgage banking firm, insurance company, or any other institutional investor authorized by law to loan money, which must be subject to credit examination and supervision by a Federal or State agency, unless the